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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/881,493

06/14/2001

Pankaj K. Jha

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11/28/2006

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EXAMINER

PATEL, HARESH N

ART UNIT

PAPER NUMBER

2154

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/881,493

Applicant(s)

JHA, PANKAJ K.

Examiner

Haresh Patel

Art Unit

2154

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: None.
- Claim(s) objected to: None.
- Claim(s) rejected: 1-20.
- Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 3. NOTE: the claims 1-20 dated 6/30/2006 are rejected with the cited prior arts of the final office action dated 8/31/06, and the cited prior arts still render the claims unpatentable (dated 6/30/2006) and the final rejection is deemed proper regarding the 35 U.S.C. 102 and 35 U.S.C. 103 rejections. Please also refer to the examiner's responses dated 7/29/2005 of the copending application 09/881367 for which the applicant filed a terminal disclaimer on 11/24/2005 and which is directly related and/or similar to the claimed subject matter, and which is also incorporated into this application under prosecution. Please also refer to the examiner's response at the last paragraph of page 1 through page 4 of the final office action dated 8/31/2006. Applicant's proposed amending the rejected claimed subject matter, with additional limitations, for example, "at least one of said peripheral blocks", etc., (as it alters the scope of the claimed subject matter and in fact making the claimed limitations narrower compared to the previously presented claims for which the final office action dated 8/31/06 was issued), which require further consideration and/or search.

The objections to the drawings, title, and the claims 1, 10 and 20 are withdrawn.

Further regarding the applicant's remarks regarding the rejections, the reply filed on 10/27/2006 is not fully responsive because it fails to include a complete or accurate record of the substance of the attorney/applicant initiated telephone interviews dated 9/11/2006 and 9/25/2006. The attorney/applicant did not include any record of the several telephone calls made by Mr. John Ignatowski to the examiner and Mr. John Follansbee for the telephone interview dated 9/11/2006, and there is no reference to the interview summary paper dated 9/14/2006. The attorney/applicant did not include what the attorney/applicant requested for the interview dated 9/25/2006 (i.e., the attorney/applicant concern regarding claim 1 and Ogawa reference, please see Mr. John Ignatowski's letter dated 9/18/2006 that contains handwritten "Walk thru claim 1 and explain how Ogawa is being applied", "Issues, rejection, claim 1, Ogawa", etc.) and there is no reference to the interview summary paper dated 9/28/2006 and the letter requesting the interview by Mr. John Ignatowski paper dated 9/18/2006.

Note: claims 2-9 depend upon claim 1 and also includes the claimed subject matter of the attorney/applicant presented claim 1 in the interview request dated 9/18/2006. Claims 10 contain similar subject matter of the attorney/applicant presented claim 1 in the interview request dated 9/18/2006 and claims 11-20 depend upon the claim 10.

An initialed and dated copy of the applicant's IDS form 1449, paper dated 10/27/2006 is attached to this Office action.